

NO. 2005-74459



JOHN DOE I,

Plaintiff,

V.

ROMAN CATHOLIC ARCHDIOCESE OF GALVESTON/HOUSTON, by and through JOSEPH FIORENZA, His Predecessors and Successors, as Archbishop of the ROMAN CATHOLIC DIOCESE OF GALVESTON/HOUSTON, and REVEREND DENNIS PETERSON,

Defendants.

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

JUDICIAL DISTRICT

11-21-05
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CHARLES E. COOPER
HARRIS COUNTY, TEXAS
05/13/21 PM 2:10
P.M.
CLERK'S OFFICE
HARRIS COUNTY, TEXAS

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PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE COURT:

John Doe I, Plaintiff, files this Original Petition, complaining of Defendants Roman Catholic Archdiocese of Galveston/Houston, by and through Joseph Fiorenza, His Predecessors and Successors, as Archbishop of the Roman Catholic Diocese of Galveston/Houston, and Reverend Dennis Peterson, states the following:

I.

Discovery Control Plan

Plaintiff affirmatively pleads that he seeks monetary relief aggregating more than \$50,000, and requests the Court enter a Discovery Control Plan and place this in Track III.

II.

Parties

1. Plaintiff John Doe I resides in Nueces County, Texas. He is an adult male whose identity has

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE - Page 1

been made known to Defendants under separate cover. Plaintiff Doe I was a minor when the sexual abuse and all sexual exploitation alleged herein occurred.

2. Defendant Reverend Dennis Peterson (hereinafter "Peterson") was a resident of Harris County, Texas, during the wrongful conduct complained of. Service of process may be had upon this Defendant at his last known address at St. John Neumann, 2730 Nellwood Drive, Houston, TX 77039.

3. Defendant Roman Catholic Archdiocese of Galveston/Houston (hereinafter "Archdiocese," by and through Most Reverend Joseph Fiorenza (hereinafter "Fiorenza"), his predecessors and successors, is an unincorporated religious association. Service of process may be had by serving the Defendant with citation at Chancery office, 1700 San Jacinto Street, Houston, TX 77002.

III.

Venue and Jurisdiction

Venue is proper in Harris County pursuant to §15.001 *et seq.* of the Texas Civil Practice & Remedies Code because all or part of the cause of action accrued in Harris County, Texas.

Jurisdiction is proper because the amount in controversy exceeds the minimum jurisdictional limits of this Court.

IV.

Factual Background

1. While he was in seventh grade, Plaintiff ran away from home and was placed for one day in a Harris County juvenile detention facility. The facility released Plaintiff, a minor, to the care of Peterson. Plaintiff's family attended a local Catholic church but did not know Peterson, who worked as a chaplain and constable for the Juvenile County facility and was a Catholic priest within this Diocese.

2. At all times material herein, Peterson was and continues to be a Roman Catholic Priest ordained by Defendant Roman Catholic Archdiocese of Galveston/Houston. At all times material herein,

Peterson remained under the retention, direct supervision, employ, agency and control of Defendant Archdiocese.

3. Defendant Peterson transported Plaintiff from the detention facility to a constable station where he showed him firearms. Peterson removed at least one gun from the premises and placed it in his boot before leaving the station.

4. Defendant Peterson then transported Plaintiff to his living quarters at St. Michael Catholic Church in Harris County, Texas. Peterson placed the firearm on a coffee table in the rectory's living area where it remained during Plaintiff's entire stay.

5. Parish staff were aware that Defendant Peterson kept the minor Plaintiff in his living quarters for several days.

6. Defendant Peterson undressed in front of Plaintiff and played videotapes of heterosexual and homosexual pornography in the living area, which he asked Plaintiff to watch with him. Peterson then sexually molested and assaulted John Doe I and continued to do so on multiple occasions over at least the next three days in the church rectory.

7. Plaintiff Doe I was raised in a devout Roman Catholic family and regularly celebrated weekly mass and received the holy sacraments through the Roman Catholic Church. Plaintiff and his family had been taught to believe in and to rely on the teachings of the Catholic Church. Plaintiff developed great admiration for, trust in, reverence for, respect for, and obedience to the Catholic Church, as represented by its priest, Reverend Peterson, and Archbishop Fiorenza.

V.

**Causes of Action Against Defendant
Roman Catholic Archdiocese of Galveston/Houston**

1. At all times material herein, approximately 1983, Defendant Peterson was assigned to Defendant Roman Catholic Archdiocese of Galveston/Houston and was under Defendant Archdiocese's

direct supervision and control when he exposed the minor Plaintiff to firearms and sexually exploited and abused him. As an ordained priest, Defendant Peterson acted upon delegated authority of the Roman Catholic Diocese as an agent for the Archbishop of the Diocese. Defendant Peterson came to know Plaintiff and gained access to him because of his status as a Roman Catholic Priest and Chaplain for the Harris County juvenile detention facility. Reverend Peterson engaged in this wrongful conduct while in his position as a chaplain employed by Defendant Archdiocese . Therefore, Defendant Archdiocese is liable for the wrongful conduct of Defendant Peterson. Plaintiff therefore pleads respondeat superior, agency, apparent agency and agency by estoppel.

2. Defendant Archdiocese negligently selected, hired and/or continued the employment of Defendant Peterson in a position of trust, confidence and authority as a chaplain in direct contact with minor boys when it knew or should have known of his dangerous sexual propensities.

3. Defendant Archdiocese failed to warn Plaintiff or his family of Defendant Peterson's dangerous sexual propensities towards minor boys.

4. Defendant Archdiocese failed to provide reasonable supervision of Defendant Peterson, allowing him to work with minors through the Harris County Juvenile Detention Home, and allowing Defendant to have minor boys such as John Doe I spend the night in his bedroom rectory.

5. Defendant Archdiocese was under a duty to disclose the extent of the problem of sexual abuse of children by Roman Catholic clergy and the severe psychological problems that would result from such abuse if not properly treated. Instead Defendant Archdiocese fraudulently concealed this information and allowed Peterson access to children for his own sexual gratification.

6. Defendant Archdiocese at the time and on the occasions in question acted with heedless and reckless disregard of the safety of Plaintiff, which disregard was the result of conscious indifference to the rights, welfare and safety of John Doe I in violation of the laws of the State of Texas.

7. Plaintiff alleges that this Defendant has acted in concert to fraudulently conceal the extent and nature of priests' sexual abuse and the harmful effects of such abuse.

8. Plaintiff alleges that the actions of these Defendants have inflicted emotional distress upon Plaintiff.

9. Plaintiff asserts that the Roman Catholic Archdiocese of Galveston/Houston is liable for acts and/or omissions pursuant to the Restatement (Second) of Torts, Section 302B, under the legal doctrine of negligent assumption of risk of intentional or criminal conduct.

An act or an omission may be negligent if the actor realizes or should realize that it involves an unreasonable risk of harm to another through the conduct of the other or a third person which is intended to cause harm, even though such conduct is criminal.

Restatement (Second) of Torts, Section 302B.

10. Defendant Archdiocese realized or should have realized that Peterson posed an unreasonable risk of harm to minor boys, including Plaintiff John Doe I.

11. Plaintiff asserts that all entities and individuals who are named as Defendants are liable for acts and/or omissions pursuant to the Restatement (Second) of Torts, Section 876, under the legal doctrine of concert of action, as joint venturers, as agents of these entities, and as shareholders of this entity under which theories Plaintiff seeks damages from all Defendants jointly and severally.

12. Plaintiff asserts that Defendant Archdiocese is liable and the statute of limitations is tolled for John Doe pursuant to Texas Civil Practices and Remedies Code Chapter 81, unsound mind, fraudulent concealment, and/or quasi and/or equitable estoppel.

Cause of Action Against Defendant Dennis Peterson

1. Defendant Peterson is a Roman Catholic priest and chaplain. He took a variety of priestly vows, including vows of chastity and celibacy. Notwithstanding these vows, while a priest, Peterson sexually abused Plaintiff in the rectory of the parish to which he was assigned by Archbishop Fiorenza.

2. Defendant Peterson knew of his own dangerous sexual propensities toward minor children.

3. Defendant Peterson sexually molested or attempted to sexually molest Plaintiff Doe I over several days after removing the child from the custody of Harris County.

4. Defendant Peterson made sexual contact with Plaintiff John Doe I and thereby assaulted him when he knew or should have reasonably believed that such contact would be provocative and/or offensive to him.

5. Defendant Peterson's sexual abuse resulted in the infliction of emotional distress on Plaintiff John Doe I when he engaged in sexual conduct with him.

6. Defendant Peterson violated Sections 21.11, 22.021, 22.041 and 43.25 of the Texas Penal Code when he engaged in the above described sexual conduct with John Doe I. Violation of these statutes constitutes negligence *per se*.

7. Defendant Peterson provided John Doe I with access to a firearm when he was a minor in violation of Section 46.13 of the Texas Penal Code. Such violation of this statute constitutes negligence *per se*.

8. Defendant Peterson maintained himself in a position of trust, confidence and authority as a parish priest, chaplain and constable and negligently used this trust, confidence and authority to sexually abuse John Doe I.

9. Defendant Peterson knowingly breached his fiduciary relationship when he sexually violated John Doe I, which proximately caused damages to Plaintiff.

10. Defendant Peterson at the time and on the occasions in question acted with heedless and reckless disregard of the safety of John Doe I, which disregard was the result of conscious indifference to the rights, welfare and safety of John Doe I in violation of the laws of the State of Texas.

11. Plaintiff asserts that Defendant Peterson is liable and the statute of limitations is tolled for John Doe pursuant to Texas Civil Practices and Remedies Code Chapter 81, unsound mind, fraud, fraudulent concealment, and/or quasi and/or equitable estoppel.

VII.

Damages for Plaintiff John Doe I

1. As a result of the conduct and incidents described herein, Plaintiff has incurred medical and psychiatric expenses in the past which were reasonable and necessary and, in all reasonable probability, such expenses will continue in the future.

2. Plaintiff has experienced severe psychological pain and suffering in the past and, in all reasonable probability, will sustain severe psychological pain and suffering in the future as a result of his psychological injuries.

3. Plaintiff has suffered mental anguish in the past and, in all reasonable probability, will sustain mental anguish in the future.

4. Plaintiff has suffered many other damages including loss of faith in God and difficulty maintaining personal relationships, and in all reasonable probability his social and professional adjustment in the future will be adversely impacted.

5. Plaintiff has suffered a diminished wage earning capacity in the past and, in all reasonable probability, will suffer loss of earning capacity in the future.

6. As a result of the above, Plaintiff seeks damages in excess of the jurisdictional limits of the Court.

7. Plaintiff also seeks punitive and exemplary damages in order to punish and deter the outrageous conduct taken in heedless and reckless disregard for the safety of Plaintiff John Doe I and as a result of Defendants' conscious indifference to the rights, welfare and safety of Plaintiff in violation of the laws of the State of Texas.

VIII.

Request for Initial Disclosure

Pursuant to Rule 194, Texas Rules of Civil Procedure, Defendants are requested to disclose to Plaintiff, within fifty (50) days of service of this request, the information or material described in Rule 194.2 to be produced at The Law Offices of Windle Turley, P.C., 1000 Turley Law Center, 6440 N. Central Expressway, Dallas, Texas 75206, during normal business hours.

IX.

Prayer

Plaintiff herein claims interest in accordance with Texas Finance Code §304.001 *et seq.* and any other applicable law.

For these reasons, Plaintiff John Doe I prays that Defendants be served and cited to appear and answer herein and upon final hearing of this cause, that Plaintiff have judgment against Defendants, jointly and severally, for damages described herein, for cost of suit, interest as allowable by law and for such other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

LAW OFFICES OF WINDLE TURLEY, P.C.



Lori Watson
State Bar No. 00791889
6440 North Central Expressway
1000 University Tower
Dallas, Texas 75206
Telephone No. 214/691-4025
Telecopier No. 214/361-5802

ATTORNEY FOR PLAINTIFF JOHN DOE I

Unofficial Copy Office of Marilyn Burgess District Clerk

ENTERED TAK

NO. 2005-74459

JOHN DOE I,

Plaintiff,

V.

ROMAN CATHOLIC ARCHDIOCESE OF
GALVESTON/HOUSTON, by and through
JOSEPH FIORENZA, His Predecessors and
Successors, as Archbishop of the ROMAN
CATHOLIC DIOCESE OF
GALVESTON/HOUSTON, and REVEREND
DENNIS PETERSON,

Defendants.

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

234TH JUDICIAL DISTRICT

DEFENDANTS' ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW ARCHDIOCESE OF GALVESTON-HOUSTON and JOSEPH A. FIORENZA Individually and as Archbishop of Galveston-Houston (hereinafter collectively the "Archdiocese Defendants"), Defendants in the above-numbered cause and file their Answer to Plaintiff's Original Petition. In support thereof, the Archdiocese Defendants would show this Honorable Court as follows:

J.

General Denial

Pursuant to TEX. R. CIV. P. 92, Archdiocese Defendants enter a general denial of the matters pleaded by Plaintiff and respectfully request the Court to require Plaintiff to prove his charges and allegations by a preponderance of the evidence as required by the Constitution and laws of the State of Texas.

II.

Affirmative Defenses

Pleading further, alternatively, some or all of Plaintiff's claims are barred by the applicable statutes of limitations.

WHEREFORE, Archdiocese Defendants pray that Plaintiff take nothing by reason of this action, that Archdiocese Defendants recover their costs, and for any other relief to which Archdiocese Defendants may be entitled at law or in equity.

Respectfully submitted,

VINSON & ELKINS L.L.P.

By:


Robert M. Schick
State Bar No. 17745715
1001 Fannin Street, Suite 2300
Houston, Texas 77002-6760
Telephone: (713) 758-4582
Telecopy: (713) 615-5528

ATTORNEYS FOR DEFENDANTS ARCHDIOCESE
OF GALVESTON-HOUSTON AND
JOSEPH A.FIORENZA INDIVIDUALLY
AND AS ARCHBISHOP OF GALVESTON-HOUSTON

OF COUNSEL:

John A. Sieger
General Counsel
Archdiocese of Galveston-Houston
State Bar No. 18342500
1700 San Jacinto Street
Houston, Texas 77002
Telephone: (713) 659-5461
Telecopy: (713) 659-1134

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NO. 2005-74459

JOHN DOE I

IN THE DISTRICT COURT OF

VS.

ROMAN CATHOLIC ARCHDIOCESE
OF GALVESTON/HOUSTON, by and
through JOSEPH FIORENZA, His
Predecessors and Successors, as
Archbishop of the ROMAN CATHOLIC
DIOCESE OF GALVESTON/HOUSTON,
and REVEREND DENNIS PETERSON

HARRIS COUNTY TEXAS
CHARLES BACARISSE
District Clerk
FAYE L E D
MAR - 2 2006
Harris County, Texas
234TH JUDICIAL DISTRICT
By Deputy

DEFENDANT DENNIS PETERSON'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, DENNIS PETERSON, Defendants in the above entitled and numbered cause, and in answer to Plaintiff's Original Petition, would respectfully show unto the Court as follows:

I.

Defendant denies each and every, singular and all, the allegations of Plaintiff's Original Petition and denies that the allegations therein are true, either in whole or in part, and demands strict proof thereof. TEX. R. CIV. P. 92.

II.

Defendant affirmatively pleads the plaintiff's causes of action are barred in whole or part by the applicable statute of limitations.

WHEREFORE, PREMISES CONSIDERED, Defendant, DENNIS PETERSON, prays that Plaintiff take nothing by reason of this suit, that the Defendant be discharged with his costs, and for all such other and further relief, both general and special, at law and in equity, to which this Defendant may show to be justly entitled.

Respectfully submitted,

RYMER, MOORE, JACKSON & ECHOLS, P.C.

By: 
L. CULLEN MOORE
TBA No. 14360025

2801 Post Oak Blvd., Suite 250
Houston, Texas 77056
(713) 626-1550
(713) 626-1558 (Fax)

ATTORNEY FOR DEFENDANT
DENNIS PETERSON

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing instrument to be served upon the following counsel of record herein by method indicated on this 8/2 day of February, 2006.

Ms. Lori A. Watson
LAW OFFICES OF WINDLE TURLEY, P.C.
6440 North Central Expressway
1000 Turley Law Center
Dallas, Texas 75206

Via Certified Mail, RRR

Mr. Robert M. Schick
VINSON & ELKINS LLP
First City Tower
1001 Fannin Street, Suite 2300
Houston, Texas 77002-6760

Via Certified Mail, RRR


L. CULLEN MOORE

WINSTEAD

Board Certified, Civil Trial Law
Texas Board of Legal Specialization

April 25, 2006

The Honorable Reece Rondon
Presiding Judge, 234th District Court
Civil Courts Building, 6th Floor
301 Fannin Street
Houston, Texas 77002

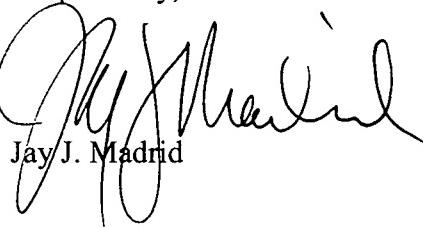
Re: No. 2005-74459; John Doe I v. Roman Catholic Archdiocese of
Galveston/Houston, et al

Dear Judge Rondon:

The parties in the above matter met in my office in Houston on Friday, April 21 for a mediation. I am pleased to report that as a result of our meeting, all matters in controversy were resolved. The parties will be submitting dispositive orders to the Court shortly in accordance with our agreement.

I appreciate the opportunity to have been of service to the parties and the Court.

Respectfully,



Jay J. Madrid

JJM:jh

cc: Lori Watson, Esq.
Joel Mafrige, Esq.
John A. Sieger, Esq.
Cullen Moore, Esq.

Dallas_1\4392014\1
9029-264 4/25/2006

F. Charles L. Bacarisse, Jr.
District Clerk
MAY 1 2006
By *Harris County, Texas* Deputy

direct dial: 214.745.5709
jmadrif@winstead.com